

Claim 43, line 9, after "panel" insert --section--.

Claim 44, line 3, change "upwardly, downwardly or sideways" to read --outwardly--.

Claim 47, line 2, after "one" insert --said--;

line 3, change "a" to read --one said--;

line 5, change "a" to read --one said--.

Claim 48, line 5, after "one" insert --said--;

line 6, change "opening" to read --openings--.

Declaration

The Examiner again incorrectly requires a new declaration. As previously pointed out, this application is a continuation of S.N. 08/910,516 and thus carries the declaration of the parent application. The copy of the declaration signed 3/27/98 in parent application S.N. 08/910,516 previously submitted satisfied the objection to the declaration in the parent application. Thus, a copy of that same declaration in the instant application should be acceptable. Accordingly, this objection should be withdrawn.

The 35 USC 112 Rejection

Claim 44 is rejected under 35 USC 112, first paragraph, as not being supported in the specification. Claim 44 has been amended to remove this objection by replacement of the term "sideways" with --outwardly--.

Claims 35-48 are rejected under 35 USC 112, second paragraph, as being indefinite. Each of these objections has been overcome by amendments to the claims. Thus, this ground of rejection should be

withdrawn.

Claim Objections

The objections to the claims as set forth in paragraph 7 of the Office Action have been overcome by amendments to the claims with the exception of the Examiner's proposed changes on lines 3 and 4 of Claim 47 which would render the claim language awkward if so amended. Thus, the objections to the claims should be withdrawn.

Double Patenting

Claims 11 and 45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 8 of U.S. Patent No. 5,823,598. This ground of rejection is not deemed proper since, for example, Claims 11 and 45 each set forth a "strut assembly" while Claim 8 of the patent does not set forth a strut assembly. Further, Claim 11 depends from Claim 1 while Claim 45 depends from Claim 43, and each includes the features of their parent claims. Claim 8 of the patent depends from Claims 7 and 1. A comparison of Claim 8 with either of Claims 11 or 45 will clearly show different structural, patentably distinct features. Thus, this ground of rejection is improper and should be withdrawn.

The 35 USC 102 Rejection

Claims 1-5, 43 and 44 are rejected under 35 USC 102(b) as clearly anticipated by McCready. Claims 1-5, for example, set forth a "hidden storage system for a vehicle" which involves hinged side panel sections "which does not substantially alter an external appearance of the vehicle", wherein said storage system includes a

storage box which "covers at least one of said wheel wells and extends forward and rearward therefrom", and said "storage box" extends "along at least a section of the floor of the vehicle". McCready teaches a vehicle with a trunk located behind the rear wheel well, and the side panel includes an opening 30 closed by an inwardly movable hinged cover member 32 so that packages can be inserted through the opening into the trunk but not removed therefrom via the opening. The opening 30 and cover 32 are clearly visible. Further, the trunk, if broadly construed as the claimed "storage box" does not extend forward and rearward of the wheel well, as claimed. Claim 43 sets forth that the storage system is "constructed to not substantially alter an external appearance of the contoured side panels of the vehicle". The opening 30 and cover 32 of McCready clearly alters the appearance of the side panel. Claim 44, as now amended, sets forth that the hinged side panel section opens outwardly, while the cover 32 of McCready opens inwardly.

It is submitted that McCready fails to teach each feature recited in Claims 1-5, 43 and 44 and thus fails to support a rejection of these claims under 35 USC 102, and the rejection should be withdrawn.

The 35 USC 103 Rejections

Claims 7 and 47 are rejected under 35 USC 103(a) as unpatentable over McCready. Claim 7 depends from Claim 1 and Claim 47 depends from Claim 43. Claims 7 and 47 each set forth a hinged side panel section on each side of the vehicle. There is no teaching

in McCready of providing an opening 30 and cover 32 on each side of the trunk. Thus, since McCready, in addition to failing to teach the features of parent Claims 1 and 43 also fails to teach or suggest the features of Claims 7 and 47, and therefore fails to support a rejection of these claims under 35 USC 103. Thus, this ground of rejection should be withdrawn.

Claims 1, 4, 5, 7, 25-28, 43 and 47 are rejected under 35 USC 103(a) as unpatentable over Stiles in view of Smith. This same rejection was previously applied against Claims 1, 4, 5, 7 and 24-28, and Applicants' response thereto as set forth on pages 8-10 of the Amendment filed January 8, 1999 is incorporated herein by reference thereto. The Examiner's description of Stiles as set forth on page 21 of this Office Action is clearly in error. The panel 22 of Stiles is shown closed because it is not hinged. There are no latch mechanisms shown for panel 22. It is true it is "not visible", since it is nonexistent. These statements by the Examiner constitute an intentional misdescription of Stiles and should be withdrawn. The Examiner contends that Smith teaches the claimed hidden latch mechanism because the key slot is covered by an "escutcheon". Such merely draws attention to the key slot, exactly opposite to a hidden latch mechanism. Further, an escutcheon changes the contour of a panel on which it is mounted. It is clearly visible. In view of Applicants' prior and foregoing comments, it is submitted that this ground of rejection is improper and should be withdrawn.

Claims 2, 3 and 31 are rejected under 35 USC 103(a) as

unpatentable over Stiles in view of Smith and further in view of Sisler. Applicants' prior comments on this ground of rejection as set forth on pages 10-13 of Applicants' Amendment filed January 8, 1999 are incorporated herein by reference thereto. Again, it is improper to modify a passenger vehicle (Stiles) with teachings from a conventional pickup truck (Sisler). It is based on hindsight having had the advantage of Applicants' disclosure. Such is improper under 35 USC 103. Further, if the passenger car of Stiles is modified as proposed by the Examiner, it would render it inoperable for its intended purpose. Such is improper under 35 USC 103. Thus, this ground of rejection should be withdrawn.

Claims 10, 12, 24, 30 and 44 are rejected under 35 USC 103(a) as unpatentable over Stiles in view of Smith and further in view of Ogilvie, 1966. This same rejection was previously applied against Claims 10, 12 and 30, and Applicants' response thereto as set forth on pages 13-15 of the Amendment filed January 8, 1999 are incorporated hereby by reference thereto. Why would one skilled in the art modify the passenger vehicle of Stiles with the teachings from a utility bed of Ogilvie but for hindsight in view of Applicants' disclosure? As previously pointed out, Ogilvie does not teach a plurality of hinged side panel sections that can be opened individually since the cover member 96 must first be opened. Further, Ogilvie does not teach a single storage box for the plurality of hinged side panel sections but does teach three separate boxes. In addition, Ogilvie does not teach the claimed "strut

assembly" but teaches a foldable support 110. Strut assemblies have been recognized as having a separate status in the art as evidenced by copending Application Serial No. 09/234,281 in which the Examiner of this application required a restriction between a strut assembly per se and a hidden storage system which utilized a strut assembly to retain the hinged side panel sections open.

It is submitted that this rejection is not only based on a hindsight reconstruction of Stiles, but to so reconstruct Stiles would render the passenger vehicle inoperable for its intended purpose because positioning the storage box or boxes as recited in the claims would block at least the entry of passengers into the rear seat of the vehicle. Patent case law has long held that such reconstruction of a primary reference is improper, and thus this ground of rejection of Claims 10, 12, 24, 30 and 44 should be withdrawn.

Claims 14, 30, 34 and 46 are rejected under 35 USC 103(a) as unpatentable over Stiles in view of Smith and further in view of LeVee. LeVee is cited to teach the claimed "drain/air relief valve" and "a plurality of horizontally hinged sections". Here again the Examiner is attempting to modify a passenger vehicle with teachings from a utility bed of a pickup truck. Why, except in an attempt to meet Applicants' claims? Since this same rejection was previously applied against Claims 14, 30 and 34, Applicants' response as set forth on pages 15-17 of the Amendment filed January 8, 1999 are incorporated herein by reference thereto. As previously pointed out

in detail on pages 15 and 16 of Applicants' prior response, LeVee does not teach "a drain/air relief valve assembly" located in "a bottom area" of the storage box but teaches a ventilation system using air pumps and exhaust ports located at the rear of the vehicle. It is noted that the Examiner has failed to respond to Applicants' argument as to the "drain/air relief valve assembly" not being taught by LeVee. Again, it is submitted that this ground of rejection is improper and should be withdrawn.

Claims 31-33 are again rejected under 35 USC 103 as unpatentable over Stiles in view of Smith and further in view of LeVee and Sisler. Applicants' response to this same rejection as set forth on pages 17 and 18 of the Amendment filed January 8, 1999 is incorporated herein by reference thereto. As previously pointed out, Sisler teaches three separate containers on each side of the pickup bed to contain materials for increasing traction of the wheels. Again, the passenger vehicle of Stiles is being modified by picking and choosing components from a utility bed pickup and a conventional pickup bed without giving full consideration as to the results of the Examiner's proposed modification of Stiles let alone the teachings to so attempt to modify coming from Applicants' disclosure. Again, this ground of rejection is improper and should be withdrawn.

Claims 1-5, 7, 10, 12, 24-28, 30-33, 35-41, 43, 44, 47 and 48 are rejected under 35 USC 103(a) as unpatentable over Sisler in view of Stiles and Ogilvie, 1966. This same rejection was previously applied against Claims 1-5, 7, 10, 12, 24-28, 30-33 and 35-42, and

Applicants' response thereto as set forth on pages 18-21 of the January 8, 1999 Amendment are incorporated herein by reference thereto. Again, it is pointed out that the proposed reconstruction of the Sisler pickup bed would render it inoperable for its intended purpose. Also, again this rejection is a clear illustration of hindsight reconstruction in view of Applicants' disclosure. It is again submitted that this ground of rejection is improper under 35 USC 103 and should be withdrawn.

Claims 1-3, 5, 7, 12, 14, 24-28, 30-32, 34-39, 42-44 and 46-48 are rejected under 35 USC 103(a) as unpatentable over Sisler in view of Stiles and LeVee. This same rejection was previously applied against Claims 1-3, 5, 7, 12, 14, 24-28, 30-39 and 42, and Applicants' response thereto as set forth on pages 21-24 of the Amendment filed January 8, 1999 are incorporated herein by reference thereto. The Examiner has merely repeated the rejection with minor comments on these reference being set forth on page 22 of the Office Action. Again, this ground of rejection is improper under 35 USC 103 and should be withdrawn.

Objections To The Specification

On page 17 (paragraph 21) the Examiner objects to various reference numerals. It is submitted that these objections are in contradiction to 37 CFR 1.84(p)(4), and this issue is a subject of a Petition to the Commissioner.

Objections To The Drawings

On page 18 (paragraph 23), the Examiner sets forth various

objections to the drawings. It is submitted that these objections are inconsistent with 37 CFR 1.84(p)(4) which states that the same part appearing in more than one view must always be designated by the same reference character. As previously pointed out, parts 103 and 104, for example, are the same part in each of Figures 9, 10, 11 and 12 and should be so numbered. The Examiner argues on page 23 of the Office Action that the storage box 103 would have "mountings (e.g., holes) for the hinges" in each figure and thus should be given different reference numerals. However, no "mountings (e.g., holes) for the hinges" are shown and thus, as shown, boxes 103 are the same part in each of Figures 9-12. This issue is also a subject of a Petition to the Commissioner.

The objection to the drawings, as set forth on page 18 (paragraph 24), relative to the term "sideways" has been overcome by amendment to Claim 24. Regarding the showing of the "bulkhead section", such is clearly illustrated in Figures 2 and 4. Figures 5-7 illustrate vans, and the entire automotive industry recognizes that vans do not have "bulkhead sections". The Examiner is called upon to specifically point out where the Examiner would illustrate a "bulkhead section" in any of Figures 5-7. Thus, these objections should be withdrawn.

As to paragraph 25 (page 19) of the Office Action, no drawing corrections are deemed necessary and thus none are being submitted.

Conclusion

In view of the amendments to the claims and the foregoing